

### REMARKS

The Examiner and his SPE are again thanked for the many courtesies extended during the personal interview. A copy of the PowerPoint presentations presented during the personal interview are submitted under separate cover and are incorporated into these remarks by reference.<sup>1</sup> In view of the matters discussed during the personal interview and the amendments and remarks herein reconsideration and withdrawal of the rejections of the application are respectfully requested.

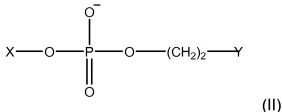
### THE NEW CLAIMS

Claims 59-69, which are consistent with matters discussed during the interview, are now pending.

Claim 59 calls for a method for reducing damage to heart muscle caused by C-reactive protein (CRP) in a patient who has suffered ischemic necrosis and is in need thereof, comprising inhibiting CRP binding to its ligands *in vivo* in the patient, by administering to the patient an effective amount of a compound that comprises phosphocholine or a derivative thereof.

Claim 64. calls for a method for reducing tissue damage, e.g., ischemic necrosis or stroke, caused by C-reactive protein (CRP) in a patient in need thereof who has suffered an inflammatory or tissue damaging condition comprising inhibiting CRP binding to its ligands *in vivo* within the patient, by administering to the patient an effective amount of a compound that comprises phosphocholine or a derivative thereof.

Dependent claims provide that the compound has the general formula (II)



wherein X is H or C<sub>1</sub> to C<sub>20</sub>, e.g., C<sub>1</sub> to C<sub>20</sub> alkyl or C<sub>12</sub> to C<sub>20</sub> alkyl, and Y is N substituted to form ammonium.

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<sup>1</sup> The filing of a Declaration was also discussed during the interview and Applicant expects to file such a Declaration shortly after Labor Day (3 September 2007).

**ALL REJECTIONS OVERCOME; THE CLAIMED INVENTION IS PATENTABLE**

The previously pending claims were rejected under 35 USC 112 (*Office Action* at 2-7), but as discussed during the interview, the claims now pending overcome that rejection. Indeed, it was also noted during the interview that Wissner, cited in the Office Action, relates to phosphocholine derivatives.

Previously pending claims were rejected under 35 USC 102 as unpatentable over Yedgar (US5,064,817) as evidenced by Bhakdi et al. (IDS) and Kitao, and/or as obvious under 35 USC 103 over Bhakdi et al. (IDS) and Kitao, in further view of Yedgar et al. (US5,064,817) and Wissner et al. (US 4,640,913).

As discussed during the interview, none of the references cited are teaching or suggesting a method for reducing damage to heart muscle caused by C-reactive protein (CRP) in a patient who has suffered ischemic necrosis and is in need thereof, comprising inhibiting CRP binding to its ligands *in vivo* in the patient, by administering to the patient an effective amount of a compound that comprises phosphocholine or a derivative thereof; or, a method for reducing tissue damage, e.g., ischemic necrosis or stroke, caused by C-reactive protein (CRP) in a patient in need thereof who has suffered an inflammatory or tissue damaging condition comprising inhibiting CRP binding to its ligands *in vivo* within the patient, by administering to the patient an effective amount of a compound that comprises phosphocholine or a derivative thereof.

Mention is herein made, and was made during the interview, of *Rapoport v. Dement*, 254 F.3d 1053 (Fed. Cir. 2001), as well as the cases cited by Applicant's attorney during the interview and in his PowerPoint presentation, to emphasize that terms in the instant claims impart patentability such that the instant invention is not taught or suggested by the prior art. Indeed, during the interview it was also discussed that the thinking in the art was contrary to the instant invention, i.e., that the invention is a pioneer invention as it breaks away from conventional scientific thought.

And, it was also discussed that the compounds of Yedgar are not useful in the methods of the invention because of the size of the Yedgar compounds; and hence, that Yedgar fails to teach or suggest the instant invention, either alone or in any fair combination.

For instance, during the interview it was asserted that Yedgar compounds would not be suitable for inhibiting CRP binding to its ligands *in vivo* in a patient through administration thereof to the patient because of the size of the Yedgar compounds. In particular, please note that Yedgar compounds include a carrier. The carriers can have a wide range of molecular weight, e.g., above 50,000 (up to a few hundred thousands); see, e.g., Yedgar, col. 4, lines 60-68. Therefore, Yedgar does not teach or suggest a compound suitable for inhibiting CRP binding to its ligands *in vivo* in a patient through administration thereof to the patient.<sup>2</sup>

Reconsideration and withdrawal of the rejections under 35 USC 112, 102 and 103 are respectfully requested.

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<sup>2</sup> The filing of a Declaration with respect to the Yedgar discussion during the interview is expected to be filed shortly after Labor Day (3 September 2007). See footnote 1. However, even if the application is taken up by the Examiner without such a Declaration in hand, the art rejections are nonetheless overcome because when Yedgar is considered in its entirety, the lack of suitability of Yedgar compounds with respect to the instant invention, and hence Yedgar not teaching or suggesting the instant invention, is, it is respectfully submitted, readily apparent from the portion of Yedgar discussed herein.

**REQUEST FOR FURTHER INTERVIEW**

If any issue remains as an impediment to allowance, a further interview with the Examiner and his SPE are respectfully requested, and they are respectfully invited to telephonically contact the undersigned to arrange a mutually convenient time and manner therefor.<sup>3</sup>

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<sup>3</sup> From about September 15, 2007 onward Applicant's attorney looks forward to working with the Examiner to place the case in allowable condition prior to September 30, 2007, as also discussed during the interview.

**CONCLUSION**

In view of the amendments and remarks herewith, the matters discussed during the interview and the PowerPoint presentations then presented, the application is in condition for allowance. Reconsideration and withdrawal of the rejections of the application, early and favorable reconsideration of the application, and prompt issuance of a Notice of Allowance are respectfully requested.

Respectfully submitted,  
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